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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 BILLY W. RICHMOND,

11 Petitioner,

12 v.

13 JEFFERY UTTECHT,

14 Respondent.

Case No. C08-5446RBL

ORDER REFUSING TO SERVE  
PETITION AND DIRECTING  
PETITIONER TO SHOW CAUSE

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16 The Court, having reviewed the § 2254 petition filed in this case, does hereby find and ORDER:

17 (1) On June 30, 2008, the Honorable Karen L. Strombom issued a report and recommendation  
18 in Richmond v. Uttecht, C07-5533RJB, a very similar case to the present matter. The underlying petition  
19 may well have been intended to be filed as a response or objection (an attempt to cure deficiencies) to  
20 Judge Strombom's recommendation. Nonetheless, after reviewing the court records, the undersigned  
21 finds similar deficiencies. For instance, in a letter from Petitioner, received by the court on July 8, 2008,  
22 Mr. Richmond explains that he agreed with the recommendation to dismiss the matter without prejudice  
23 to allow him an opportunity to properly exhaust his state remedies. (Doc. 37 in C07-5533RJB).

24 (2) Accordingly, in addition to the underlying petition posing similar deficiencies to his earlier  
25 case, i.e., lack of specificity and detail needed to clarify Petitioner's basis for relief, the Court will **not**  
26 order a response to the petition because the petition does not indicate that petitioner's grounds for federal  
27 relief have been properly exhausted in state court. Specifically, the petition does **not** provide sufficient  
28 detail nor show that his claims for federal relief have been presented to the Washington State Supreme

1 Court.

2 The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of  
3 habeas corpus. 28 U.S.C. § 2254(b)(1). If exhaustion is to be waived, it must be waived explicitly by  
4 respondent. 28 U.S.C. § 2254(b)(3). A waiver of exhaustion, thus, may not be implied or inferred. A  
5 petition can satisfy the exhaustion requirement by providing the highest state court with a full and fair  
6 opportunity to consider all claims before presenting them to the federal court. Picard v. Connor, 404 U.S.  
7 270, 276 (1971); Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir.), *cert. denied*, 478 U.S. 1021 (1986).  
8 Full and fair presentation of claims to the state court requires “full factual development” of the claims in  
9 that forum. Kenney v. Tamayo-Reyes, 504 U.S. 1, 8 (1992).

10 (2) Petitioner is directed to show cause by **September 22, 2008**, why the petition should not  
11 be dismissed without prejudice for the reasons stated above.

12 (3) The Clerk is directed to send copies of this Order and the General Order to petitioner.

13 DATED this 26th day of August, 2008.

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15 /s/ J. Kelley Arnold  
16 J. Kelley Arnold  
United States Magistrate  
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